

**REMARKS**

Claims 1-8 are pending in this application. Claims 1-8 stand rejected. In light of the remarks set forth below, Applicant respectfully submits that each of the pending claims is in immediate condition for allowance.

Claims 1-8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,732,117 ("Chilton") in view of U.S. Patent No. 6,779,039 ("Bommareddy"). Applicant respectfully requests reconsideration and withdrawal of this rejection.

To establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify a reference or combine references to arrive at the claimed subject matter. The prior art references must also teach or suggest all the limitations of the claim in question. See, M.P.E.P. § 706.02(j). A reference can only be used for what it clearly discloses or suggests. See, In re Hummer, 113 U.S.P.Q. 66 (C.C.P.A. 1957); In re Stencel, 4 U.S.P.Q.2d 1071, 1073 (Fed. Cir. 1987). Here, the references, whether taken individually or in combination, do not disclose or suggest the invention claimed by the Applicant.

The Office Action asserts that Chilton discloses a means for measuring service response time when the client requests the server for service to when the server delivers the service to the client at column 2, lines 60-67 and column 3, lines 1-36. Applicant respectfully disagrees with this interpretation in Chilton.

In this cited portion of Chilton, a storage manager 32 receiving a database query regarding, for example, which seats for a particular flight are empty is disclosed. The query is run and the response to the query is delivered to a user. In Chilton hash tables are used to improve response times to client-oriented requests.

The server 24 generates a hash table that identifies all empty seats on a flight and stores the hash table on data storage system 26. The server 24 can direct a storage manager 32 to read the entire database from the data storage system 26, generate a hash table and store the generated hash table. When a user submits the client-oriented request, the server can retrieve the hash table and identify the empty seats. Because the hash table is smaller than the database itself, the server requires less time to respond to the client-oriented request. However, Chilton discloses no means for measuring service response time. Thus, Applicant respectfully asserts that this limitation is not disclosed by Chilton.

The Office Action next asserts that a means for judging the service response time is disclosed at column 2, lines 60-67 and column 3, lines 1-36. As discussed above, there are no means in Chilton for measuring service response time. Therefore, there can be no judging of non-existent service response times. In Chilton, it is merely stated that because hash tables are smaller than overall databases, the system will require less time to respond to a request where a hash table is used. Thus, there is no means for judging the service response time, there is merely a statement that because the hash table is smaller, less time is required to respond to the request.

The Office Action asserts that a means for creating a front-end to process the service tasks of the server and perform the service delivery in whole or on part on the service response time is disclosed at column 8, lines 1-57 and column 9, lines 35-67. Applicant respectfully submits that this portion of Chilton does not disclose Applicant's explicitly recited means.

Applicant recites a means for creating a front end to process the service tasks of the server. As disclosed in Chilton, there is a front end in the client system 62 which includes a user interface for accessing the server system. There are no means for creating a front end process to process the service tasks. In Chilton, the data storage

system 66 is adapted to receive and respond to inquiries. However, there is no means for creating a front end as recited in Applicant's claim.

As shown in Figure 3, data storage system 66 includes a front end interface for performing the server process as discussed above. However, front end interface circuits 114 are not created to process service tasks in whole or in part based on the service response time as explicitly recited in Applicant's claim. In fact, no where in Chilton is the service time monitored as discussed above with respect to the two limitations discussed above.

The Office Action recognizes that Chilton does not specifically teach the step of creating a set value to judge the service response time. In fact, as discussed above, time is irrelevant in the Chilton system, beyond the extent that a hash table is used to improve query response time. The Office Action asserts that Bommareddy cures the deficiency in Chilton. However, even combining Chilton and Bommareddy, each limitation of Applicant's claim is not disclosed.

In Bommareddy, server load is managed using a variety of techniques. Server load is determined using intrusive and non-intrusive techniques. One of the non-intrusive techniques to determine server load metrics is probe response time. A network flow controller tracks the time to probe a server. However, this time to probe a server is not a service response time recited in Applicant's claim with respect to a means for measuring service response time from when the client requests a server for service to when the server delivers the service nor is it the claimed means for judging the service response time.

Thus, Applicant respectfully submits that the combination of Chilton and Bommareddy fails to disclose Applicant's explicitly recited claim limitations and therefore requests allowance of independent claim 1 and its dependent claims 2-4.

Claim 5 is a method of using front ends corresponding to the apparatus recited in claim 1. Among the limitations of claim 5 not present in the cited reference is creating a front end to process the service tasks of the server and perform the service delivery in whole or in part when the service response time is equal to or more than the setting value.

The Office Action asserts that the step of creating a front end to process the service tasks is disclosed in Chilton at column 8, lines 1-57 and column 9, lines 35-67 and that the response time value is disclosed in Bommareddy at column 17, lines 27-67 and column 18, lines 1-65. Applicant respectfully disagrees.

In Chilton, there is no disclosure of creating a front end. In Chilton, the front end is present in the data storage system 66 to receive and reply to client-oriented requests. There is no disclosure creating a front end at all, let alone when the service response time is equal to or greater than a set value. Chilton does not ever disclose creating a front end.

Bommareddy discloses determining server load in part by tracking probe response time. However, merely tracking server load based on probe response time would not lead one to create a front end to process the server tasks of the server and perform the service delivery when a response time is equal based on the disclosure in Chilton and Bommareddy. As such Applicant respectfully asserts that claim 5 and its dependent claims 6-8 are allowable over the cited combination.

Applicant has responded to all of the rejections and objections recited in the Office Action. Reconsideration and a Notice of Allowance for all of the pending claims are therefore respectfully requested.

Application No.: 10/083,465

Docket No.: M1909.0004

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

If the Examiner believes an interview would be of assistance, the Examiner is welcome to contact the undersigned at the number listed below.

Dated: June 16, 2005

Respectfully submitted,

By

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